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FRIEDRICH KUEFFNER 317 MADISON AVENUE SUITE 910 NEW YORK, NY 10017			SHAPIRO, JEFFERY A	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/426,023
Filing Date: October 25, 1999
Appellant(s): BOSS, HEINZ

MAILED

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GROUP 3600

Friedrich Kueffner
For Appellant

SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/4/03 and order returning undocketed appeal, dated 2/18/04.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1-10 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

4,768,766	Berger, et al	9-1988
5,114,128	Harris, Jr., et al	5-1992
5,777,443	Chang, Bobby	7-1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-10 rejected under 35 U.S.C. 102(b) as being anticipated by Harris. Harris discloses an apparatus for collecting, stitching, and cutting printed products as follows.

As described in Claim 1:

- 1.) An endless collector chain (12);
- 2.) Successively arranged feeders (14c and 14d) mounted above the collector chain;
- 3.) A stitching device (30);
- 4.) A delivery unit (32);
- 5.) a drive unit (20) comprised of at least one servo drive and a collector chain drive connected to the collector chain *and configured to control the first servo drive through a signal line in a synchronously timed*

manner, *wherein the first servo drive is configured to drive additional units of the apparatus* (Note that such a combination is well known in the art. See, for example, incorporated patent 4,768,766, elements (50, 65, and 67), col. 6, lines 38-42).

As described in Claim 2:

6.) The servo drive is configured to drive at least one of a stitching machine and a trimmer and at least one feeder (Note that said stitcher and trimmer are controlled by the same data processors (22 and 18), implying that servo drive or its functional equivalent is used by the device of Harris);

As described in Claim 3:

7.) Additional servo drives for individually driving the feeders (Note that said feeders are linked to said data processors (22 and 18) implying servo drives or the equivalent are used to control said feeders);

As described in Claim 5;

8.) The collector chain drive is configured as master and the servo drive and the additional servo drives are each configured as slaves (Note that data processor (22) controls all components, some through slaved bindery control (18) which is a functional equivalent to a master/servant configuration);

As described in Claim 6;

9.) The additional servo drives are configured to follow the collector chain drive configured as a servo drive synchronously with respect to

rotation (Note that it is inherent that in order for data processor (22) to control various components of the system, many, if not all of which comprise shafted and geared components, that synchronous drive with respect to rotation must be effected);

As described in Claim 7;

10.) Each feeder (14a-d) is configured to be operated individually relative to the collector chain (See col. 8, lines 53-64);

As described in Claim 8;

11.) Electronic means for adjusting a speed of the collector chain according to the different chain spacings (See figure 1);

As described in Claim 9;

12.) The servo drive of the collector chain comprises an overload function (Note that it is inherent in industry to use servo drives having an overload function);

As described in Claim 10;

13.) Electronic means for carrying out the time adjustment of the feeders relative to the collector chain (Again, note data processors (22 and 18)).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris in view of Chang.

Both Chang and Harris are analogous art because they both concern book binding systems.

Regarding Claim 4, it would have been obvious and well known to one ordinary skilled in the art to have used a second servo drive as the collector chain drive so as to incorporate computer control to the drive system. Again, note that Harris discloses a servo motor (20) for driving a chain. Additionally, Chang provides further evidence that this is a prolific configuration within the art. See figure 6, noting motors (94 and 96).

See also Chang, noting that motor (60) drives devices (57). Note also that the abstract of Chang (US 5,777,443) indicates that the controller is operable in an independent mode or a synchronous mode.

(11) Response to Argument

Applicant's arguments filed 3/4/03 have been fully considered but they are not persuasive.

Harris discloses an endless collector chain, feeders, a stitching device, a delivery unit, and a drive unit. As indicated by Berger et al, the drive unit has at least one servo drive and a collector chain. Note also that a gear drive (65) with chain drive gear (66) is also included with a signal generator (67). This signal generator is in communication

with a control data processor (30). It is inherent that in order for computer control of a mechanical system to be effected, the components of a system must behave in a highly predictable manner. The word "synchronous" is defined in Merriam-Webster's Collegiate Dictionary, 10th ed., p. 1196, as follows.

1.) happening, existing, or arising at precisely the same time, 2.) recurring or operating at exactly the same periods, 3.) involving or indicating synchronism, 4a.) having the same period and phase, 4b.) geostationary, 5.) of, used in, or being digital communication (as between computers) in which a common timing signal is established that dictates when individual bits can be transmitted, in which characters are not individually delimited, and which allows for very high rates of data transfer.

From this definition, it is clear that the components mentioned above as being disclosed in Harris and Berger et al are inherently synchronous. Inherency is the concept that the components of an invention, by inference, behave in a particular manner, or in order to work as described, must by implication include a certain component.

The chain gear drive and chain are connected to a servo motor and signal generator. It is inherent that the workings of these components must work together in a recurring, predictable manner. When the gear drive moves, the chain moves, which is detected by the servo motor encoder which changes analogue to digital output for signaling a computer. The incorporation of the signal generator further indicates a timing signal exists which allows for computer control to be effected. The operation of these components, and infact, the entire apparatus, operates in a synchronous fashion. Whether or not operator involvement in such computer control is indicated or not, the apparatus nonetheless operates in a predictable manner. In addition, when the claim language is read according to plain meaning and reasonably construed it is understood

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that an operator could set up such a human-assisted-computer-controlled apparatus to operate in a constant state (where operator input parameters are not changed) in which the apparatus would still operate in a synchronous manner. The fact that the device allows custom batch jobs to be run appears to be inconsequential to the issue at hand. At the very least, it is well known to those ordinarily skilled in the art to drive several pieces of machinery off of one drive, and to use servo motors in such a configuration to promote computer control.

Regarding Applicant's mention on p. 6, last two lines of the brief, that "[s]uch a configuration has nothing to do with the subject matter of the present invention", note again that Harris discloses a stitcher (30) and feeders (14a-d), which are "synchronously timed" and controlled by the controller. Chang further indicates motivation to use such a configuration so as to allow various components to act independently or in synchronization with other components. See Chang, abstract, lines 6-9.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

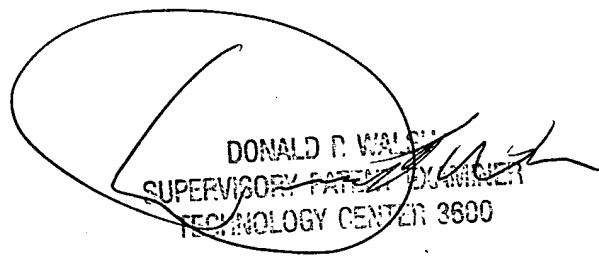
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November 8, 2004

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